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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,168	01/09/2004	Martin Dalgard	87728-3800	8470

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PATENT DEPARTMENT
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EXAMINER

CAMPBELL, KELLY E

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/754,168

Applicant(s)

DALGAARD, MARTIN

Examiner

Kelly E Campbell

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-18 is/are rejected.
- 7) ☒ Claim(s) 3-4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1,5,7-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mometti (EP 0824942 A1) in view of Reuss et al (US 6,250,651).

Mometti teaches an adjustable strap assembly (4) for securing a boot to binding (1) including:

a binding base (2) securable to a snowboard, a highback support (22) connected to the binding base (2), medial (17) and lateral (16) sidewalls,

a lateral strap (4a) having a first end for connection to a lateral side (16) of the binding (1) and having a second end of serrated surface;

an instep pad indicated at reference numeral (4) that includes a connection device (or ratchet buckle) positioned on a first distal end for adjustable connection to the second end of the lateral strap (4a),

and having an engagement device (or strap restraining the serrated edge of the lateral strap to the instep pad) positioned on a raised ramp area adjacent a second distal end of the instep pad (4) for adjustable connection to a medial strap (4b) via the

plurality of teeth on the medial strap (4b) mating with the teeth of the engagement device (second ratchet buckle);

a medial strap (4b) having a first end for connection to a medial side of the binding (17) and having a second end for adjustable attachment to the second distal end of the instep pad (4);

and an adjustable retention assembly (silent, second ratchet buckle) for releasably securing the medial strap (4b) permitting the length of the strap assembly (4,4a,4b) to be selectively adjustable by a user.

Mometti does not teach the medial strap including an elongated slot.

Reuss et al teaches binding (70) for a snowboard, including:

an ankle strap (76) and a toe strap (20) connected on their respective first sides to the lateral sidewalls of the binding base plate (72) and on their second sides to the medial sidewall (silent) of the binding (70);

a highback (80) and highback heel cup (82)

wherein the toe strap includes a lateral medial strap (42) attached to a medial side of a binding (82), including an elongated slot (38) positioned a predetermined end for the medial strap (42) end, wherein an adjustable retention assembly (30,40) is associated with the elongated slot, the retention assembly for releasably securing the medial strap, permitting the length of the strap assembly (20) to be selectively adjustable by a user,

and wherein the retention assembly includes a screw (40) and T-nut (36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the snowboard binding instep strap assembly taught by Mometti, to include a toe strap to further secure the user's foot to the binding, and to further include a slot adjustment assembly as taught by Reuss et al, in combination with the lateral strap, instep pad and medial strap, thus eliminating the need for two ratchet buckles, minimizing the bulkiness of the Mometti design, and providing alternate means for adjusting the size/length of the instep strap, and further providing the same adjustable strap assembly combination for the toe strap of the binding to further adjust the binding to the size of the user's foot for a better fit and increased safety and stability. It has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mometti (EP 0824942 A1) in view of Reuss et al (US 6,250,651) as applied to claim 1 above, and further in view of Katz (D308,997) and Valsecchi et al (US 4,683,620).

Mometti modified by Reuss et al teaches all aspects of the claimed invention, except a plurality of teeth on the engagement device.

Katz teaches an engagement device in the form of a buckle positioned on a raised ramp.

Katz does not specifically disclose a plurality of teeth on the buckle.

Valsecchi et al teaches a buckle engagement device (20) having a plurality of teeth (41) for engaging the ratchet teeth of a binding strap (11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the engagement device (or retaining strap) for further retaining the lateral strap of the binding taught by Mometti, with a buckle, as taught by Katz, for providing a more secure strap retention device for the user's boot, and further providing a plurality of teeth on that engagement device to further prevent the possibility of release of the lateral strap when the binding is in use, as taught by Valsecchi et al.

Claims 6,14,and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mometti (EP 0824942 A1) in view of Reuss et al (US 6,250,651) as applied to claims 5,13 and 17 above, and further in view of Gonthier (US 6,773,020).

Mometti modified by Reuss et al teaches all aspects of the invention, except a strap retaining cover.

Gonthier teaches a slot adjustment retention assembly (40,42,43) including a strap retaining cover (40) for enabling an extension of the strap assembly to a maximum length and preventing separating of the strap and the adjustment device (42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the strap assembly with adjustment retention assembly taught by Mometti modified by Reuss et al, to include a strap retaining cover to further reinforce the strap for added safety and stability, as taught by Gonthier.

Allowable Subject Matter

Claims 3-4 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 11/08/2004 have been fully considered but they are not persuasive. Applicant's arguments that the Mometti reference does not teach an engagement device positioned on a "raised ramp area" of the instep pad (4), is not persuasive. Mometti clearly discloses a binding assembly having mirror imaged ends (4a,4b) both with adjustable ratchet assemblies, adjustably engaged with instep (4) and the instep ends, shown from a lateral side view in Figure 1, show the instep (4) includes a "raised end portion or raised ramp", see the illustration attached. The engagement portion or ratchet, being positioned on that "raised ramp" area of the instep (4). The adjustable straps (4a,4b) do not interfere with the quick close lever assembly taught by Mometti, but simply add a means for a user to quickly adjust the instep for comfort without releasing the binding altogether with the lever actuators (16,17). The Reuss reference simply teaches an alternate engagement device type including the slot sliding assembly and in place of the ratchet assemblies on the instep and the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the

test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly E Campbell whose telephone number is (703) 605-4264. The examiner can normally be reached on 9:00-5:30 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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